



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/408,794	09/30/1999	KAUSHAL KURAPATI	PHA-23,790	4468
24737 7590 11/17/2009 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510				
EXAMINER LAZARO, DAVID R				
ART UNIT 2455		PAPER NUMBER		
MAIL DATE 11/17/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/408,794

Applicant(s)

KURAPATI ET AL.

Examiner

DAVID LAZARO

Art Unit

2455

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-10, 12 and 15-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 15-22 is/are allowed.
- 6) ☒ Claim(s) 1, 3-10 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/C)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. This office action is in response to the amendment filed 07/08/2009.
2. Claim 1 was amended.
3. Claims 2, 11,13 and 14 are canceled.
4. Claims 1, 3-10, 12 and 15-22 are pending in this office action.

Response to Amendment

5. The amendment to claim 1 fails to overcome the rejection of claims 1, 3-10 and 12 under 35 USC 101. While a machine tie was introduced in the preamble, the machine tie is not included in the body of the claim. Because of this, there is no tie to a particular machine that imposes a meaningful limit on the claim's scope. The tie must be to a particular machine or the particular transformation is of a particular article. Additionally the particular machine tie or particular transformation must impose a meaningful limit on the claim's scope and must involve more than insignificant "extra-solution" activity. If the machine or transformation is only present in a field-of-use limitation or in a step that is only insignificant "extra-solution" activity, the claim fails the M-or-T test, despite the presence of a machine or a transformation in the claim.

Specification

6. The specification filed 07/08/09 is accepted by the examiner. The objection to the specification is withdrawn based on this filing.

Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 1, 3-10, and 12 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

9. Claim 1 is directed towards a method related to a virtual library. In order to be statutory under 35 USC 101, a process claim must pass the machine-or-transformation test. The claimed process must (1) be tied to a particular machine or apparatus; or (2) particularly transform a particular article to a different state or thing. The process of claim 1 does not appear to be tied to a particular machine or apparatus or particular transform a particular article to a different state or thing. Claims 3-10 and 12 are similarly deficient.

10. Note the mere presence of a machine tie (such as the claimed "computer-enabled apparatus" of the pre-amble) or transformation is not sufficient to pass the test. The tie must be to a particular machine or the particular transformation is of a particular article. Additionally the particular machine tie or particular transformation must impose a meaningful limit on the claim's scope and must involve more than insignificant "extra-solution" activity. If the machine or transformation is only present in a field-of-use limitation or in a step that is only insignificant "extra-solution" activity, the claim fails the M-or-T test, despite the presence of a machine or a transformation in the claim.

Allowable Subject Matter

11. Claims 15-22 are allowed.

12. The following is a statement of reasons for the indication of allowable subject matter: The primary reasons for allowance is the inclusion of the following limitations in the independent claims directed towards a user profile and associated virtual library:

“ a populator for populating a virtual library with a plurality of different virtual media collections in accordance with a user profile, wherein the virtual library is populated with different types of media obtained from different media sources;

...a filter for filtering the results of the searching step in accordance with the user profile and said browsing step, wherein said filtering comprises explicit and implicit filtering, wherein said explicit filtering provides filtering of from information from said plurality of different media collections and said implicit filtering draws from collaborative data among said plurality of different media collections and similar user profiles;

a prioritizer for prioritizing results of the filtering step; and

an updater for updating the user profile in accordance with at least one selection of the results of the filtering step, wherein said updating is reflected in a ratio in responding to said user's current programming choice or specific requests.” (as from claim 19, similar limitations in claim 15)

This subject matter, when considered as a whole, is not found in the prior art nor is it obvious in view of the prior art.

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID LAZARO whose telephone number is (571)272-3986. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David Lazaro/
Primary Examiner, Art Unit 2455
November 16, 2009